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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,597	02/09/2004	Clifford E. Gammons	26494.00	1779
22465	7590	06/09/2005	EXAMINER	
PITTS AND BRITTIAN P C P O BOX 51295 KNOXVILLE, TN 37950-1295			GIBSON, ROY DEAN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/775,597

Applicant(s)

GAMMONS ET AL.

Examiner

Roy D. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/9 &amp; 4/29/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeVilbiss et al. (5,989,285) in view of Irani (5,405,370). DeVilbiss et al. disclose temperature controlled blankets comprising a first sheet (Figure 3, # 38) which is fluid impermeable, a second sheet (28) secured to the first sheet and which is made from air impermeable material and having numerous apertures (54) for releasing air toward the patient; a supply inlet (62) and manifold (region adjacent to inlet 62 that supplies gas to six longitudinal channels as shown in Figure 2); a return outlet (60) and return manifold (region adjacent to outlet 60 that returns gas from the six longitudinal channels as shown in Figure 2); and a heat source (122) for collecting, heating and directing air toward the patient through the second sheet (col. 3, line 50-col. 5, line 43 and col. 6, lines 5-47). But, DeVilbiss et al. fail to specifically disclose the second sheet forms a drape on all four sides of the blanket to define a skirt for draping over the patient. However, Irani discloses an inflatable air blanket formed with two sheets with the lower sheet permitting penetration and diffusion of air therethrough and configured to drape over the patient by supplying additional material beyond the air permeable regions (essentially as the claimed structure of a drape, Figures 3, 5 and 8, # 16a and

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col. 3, lines 20-43). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art of medical thermal blankets to modify the blanket of DeVilbiss et al., as taught by Irani, to provide additional material beyond the air distribution region to serve as a drape to confine the air to the region surrounding the patient.

Further to claims 2 and 7, DeVilbiss et al. further disclose the first securement region as claimed as well as up to six longitudinal and lateral channels.

Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeVilbiss et al. and Irani as detailed above and further in view of Feher (4,777,802). Neither DeVilbiss et al. nor Irani disclose a humidifier for controlling the humidity of the air circulated through the air blanket. However, Feher discloses a blanket and a system for providing heated air to the air blanket including a humidifier for conditioning the air (col. 1, lines 65-69, col. 3, lines 9-12 and col. 9, lines 20-27). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art of medical thermal blankets to modify the blanket of DeVilbiss et al./Irani, as taught by Irani, to provide a humidifier to condition the air being heated and directed through the second sheet.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeVilbiss et al. and Irani as detailed above and further in view of Augustine et al. (6,537,307). Neither DeVilbiss et al. nor Irani disclose the second sheet is fabricated

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from an air-permiable material whereby air is communicated through the second sheet toward the patient. But, Augustine et al. disclose a thermal blanket with multiple layer sheets and that a sheet with apertures may, as an alternative equivalent, comprise an air-permeable material (col. 1, lines 55-62). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art of medical thermal blankets to modify the blanket of DeVilbiss et al./Irani, as taught by Augustine et al. to provide an air-permeable sheet material as an art recognized alternative equivalent to an air-impermeable sheet with apertures.

#### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Augustine et al. (6,558,413) disclose an inflatable blanket with exhausting apertures which vary in density.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Roy D. Gibson". The signature is written in a cursive, flowing style.

Roy D. Gibson  
Primary Examiner  
Art Unit 3739

June 6, 2005